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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,211	10/17/2001	James Shuder	SUN-P6552 US/NC	7395

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EXAMINER

JASMIN, LYNDIA C

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,211

Applicant(s)

SHUDER ET AL.

Examiner

Lynda Jasmin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Amendment received on November 16, 2004 has been acknowledged.

Information Disclosure Statement

2. The information disclosure statement filed November 16, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because an attached Form PTO-1449 is not submitted. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Further, the submitted information disclosure statement must be signed. See MPEP § 714.01(a), 37 CFR 1.33(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Huff et al. (4,383,298).

Huff et al. discloses the system and method as claimed having

A system comprising: a computer implemented procurement module (via online CRT "smart" terminals 50) for processing both purchase order requisitions for goods and timecard information for services, the procurement module including a buyer module for receiving information related to contractor services and for generating an electronic timecard in response thereto (via maintenance analysis system; col. 6, line 46 through col. 7, line 10), and a timecard module receiving electronic timecards from the buyer module and for generating a purchase order based on approved electronic timecards, the purchase order for use in generating a payment for the contractor services (via SUBMOD that generates labor time card, purchase orders, the repair history cards, the actual job scheduling and working being indicated in stage 20 in the flow chart of FIG. 1).

5. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Haney (2001/0051889 A1).

Haney discloses the system and method (10) as claimed having a computer implemented procurement module (via organization 20) for processing both purchase order requisitions for goods and timecard information for services (see page 2, ¶ [0021]), the procurement module including a buyer module (via requesting manager

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computer 22) for receiving information related to contractor services (via candidate's services) and for generating an electronic timecard in response thereto (see page 2, ¶ [0022]), and a timecard module (via contract computer 28) receiving electronic timecards from the buyer module and for generating a purchase order based on approved electronic timecards (¶ [0025]), the purchase order for use in generating a payment for the contractor services (via submitting an invoice to organization 20).

Haney further discloses a workflow module (via estimated work hours and overtime hours) coupled to the timecard module for use in allowing an approver (resource approver) to approve and decline the electronic timecards (see ¶ [0025]). Further, the timecard module generates an approval notification in response to receiving an electronic timecard from the buyer module (see ¶ [0026]). The approval notification is an electronic mail message having an approval form readable by the workflow module (via a CLR form), the electronic mail message transmitted to an approver related to the contractor services (see ¶ [0026]). The approval form is readable by an electronic mail program and is returned to the computer implemented procurement system after being completed by the approver (see ¶s [0028-0031]). The buyer module is browser based (GUI) and wherein the procurement module is hosted on a remote server system (via communication network 30). The computer implemented procurement system (via organization 20) further includes an external report generating module for generating information to be used by external applications and wherein the information is formatted using XML data (see ¶ [0036]). The electronic timecard further includes a plurality of line items describing the contractor services (via presenting

resumes information) having a contractor identification, a description of services rendered, an amount of hours performed for the services rendered, an hourly rate for said hours, and subtotals representing the amount of hours by the hourly rate (as illustrated in Figure 6). The timecard module includes a contractor profile for a contractor, the contractor profile including contractor identification, authorized projects for the contractor, authorized work types for the contractor, an authorized hourly rate for the contractor, and an approver for the contractor (as illustrated in Figure 4; see ¶s [0049-0051]). The electronic timecard comprises a plurality of line items and wherein the approval notification comprises information from the electronic timecard and an accounting code associated with each line time of said electronic timecard (via field 614-616; as illustrated in the timesheet form Figure 6).

Response to Arguments

6. Applicant's arguments filed November 16, 2004 have been fully considered but they are not persuasive.

Applicants first argue, "Huff does teach a computer implemented procurement module ... *for generating an electronic timecard...*" and "for generating a purchase order based on approve electronic timecards." The Examiner respectfully disagrees. Huff discloses that the system of the present invention are to provide on-line editing and updating with respect to the activity or maintenance request orders. Huff further discloses:

'In particular, once all the data from all the various input sources already discussed has been recorded as indicated by block 32, several methods

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become available to the maintenance analyst to interrogate the data base or data base complex. This will also be understood by reference to FIG. 2 in which it is generally indicated that a number of departments within the plant, namely, maintenance, production and accounting, have their own CRT "smart" terminals 50 and that the data base complex designated 60 may typically be interrogated by, for example, the aforementioned maintenance analyst in order to display at his terminal 50 all of the maintenance requests performed against a particular service number within the current year. As a result of such an interrogation, a complete breakdown indicating planned and actual labor and material is displayed upon the CRT at terminal 50. With this information available the analyst can determine if a similar occurrence happened in the past. The actual labor hours and materials that were used on previous maintenance requests can aid him in defining accurate time and cost estimates for the new request.'

Huff further discloses a program that provides a means by which inquiries can be made concerning detail information about the maintenance labor used to support a maintenance request. The program retrieves the MR data base root segment and then retrieves all the detail labor segments belonging to that MR number. Once found, the selected information is formatted and displayed upon the output screen seen in Document 6. ##SPC4# (as illustrated in cols. 25 and 26).

Applicants next argue, "Haney does not teach a computer implemented procurement module for processing both purchase order requisitions for goods and timecard information for services." The Examiner respectfully disagrees. It is the Examiner's position that when interpreting functional language, if the prior art is capable of performing the claimed function—even if not directly disclosed-- it anticipates. *In re Schreiber*, 128 F.3d 1473, 1478, 44 USPQ2d 1429, 1432 (Fed. Cir. 1997) (Applicant's popcorn dispenser was rejected with an oil can because the functional limitations were inherent in the reference). It is well known that the Applicants are free to recite features

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of an apparatus either structurally or functionally. *In re Swinehart*, 439 F.2d 210, 212, 169 USPQ 226, 228 (CCPA 1971). It is the Examiners position that the limitations “for goods” and “for services” are functional or intended use language. However, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the function or intended use, then it meets the claim. *In re Casey*, 370 F.2d 576, 152 USPQ 235, 238 (CCPA 1967).

If Applicants desire to give the phrase greater patentable weight, the Examiner respectfully recommends Applicants remove “for” from the phrase where intended use is not desired. Like always, such amendments must not constitute new matter and must be supported in Applicants’ specification.

Applicants further argue “Haney does not teach generating information to be used by external applications wherein the information is formatted using XML data.” The Examiner respectfully disagrees. Haney discloses using the help of a web browser such as Internet Explorer 4.0 or Netscape Navigator 4.0 to present information to present information, a variety of other manners, such as fax or mail to send information. The Examiner notes that web browser is software that lets a user view HTML documents. HTML and XML are markup languages, which are used in web pages.

Applicant’s argument having been found unpersuasive, the rejection has not been withdrawn.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Peterson, Collado et al., and Hartigan et al. are cited as art of interest.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lynda Jasmin 2/10/05
Primary Examiner
Art Unit 3627

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